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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8
9 JAMES ERIC FINIAS,

Case No. 3:19-cv-00142-LRH-CBC

10 Petitioner,
11 v.

SCEDULING ORDER

12 RENEE BAKER, *et al.*,

13 Respondents.

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15 This action is a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by
16 James Eric Finias, a prisoner at Nevada's Lovelock Correctional Center. The Court appointed
17 counsel to represent Finias on March 13, 2019 (ECF No. 3). Counsel appeared for Finias on
18 April 12, 2019 (ECF No. 8). Counsel appeared for the respondents on March 14, 2019 (ECF
19 No. 7). Therefore, the Court will set a schedule for further proceedings in this action, as follows.

20 Payment of Filing Fee. Petitioner shall pay the \$5 filing fee for this action within 20 days
21 from the entry of this order.

22 Amended Petition. If necessary, Petitioner shall file an amended petition for writ of
23 habeas corpus within 90 days after entry of this order. The amended petition shall specifically
24 state whether each ground for relief has been exhausted in state court; for each claim that has
25 been exhausted in state court, the amended petition shall state how, when, and where that
26 occurred. If Petitioner determines that an amended petition need not be filed, then, within 90
27 days after entry of this order, Petitioner shall file a notice to that effect.

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1 **Response to Petition.** Respondents will have 60 days following service of the amended
2 petition to file an answer or other response to the amended petition. If Petitioner does not file an
3 amended petition, Respondents will have 60 days following the due-date for the amended
4 petition to file an answer or other response to Petitioner's petition.

5 **Reply.** Petitioner will have 45 days following service of an answer to file a reply.
6 Respondents will thereafter have 30 days following service of a reply to file a response to the
7 reply.

8 **Briefing of Motion to Dismiss.** If Respondents file a motion to dismiss, Petitioner will
9 have 60 days following service of the motion to file a response to the motion. Respondents will
10 thereafter have 30 days following service of the response to file a reply.

11 **Discovery.** If Petitioner wishes to move for leave to conduct discovery, Petitioner shall
12 file such motion concurrently with, but separately from, the response to Respondents' motion to
13 dismiss or the reply to Respondents' answer. Any motion for leave to conduct discovery filed by
14 Petitioner before that time may be considered premature, and may be denied, without prejudice,
15 on that basis. Respondents shall file a response to any such motion concurrently with, but
16 separately from, their reply in support of their motion to dismiss or their response to Petitioner's
17 reply. Thereafter, Petitioner will have 20 days to file a reply in support of the motion for leave to
18 conduct discovery.

19 **Evidentiary Hearing.** If Petitioner wishes to request an evidentiary hearing, Petitioner
20 shall file a motion for an evidentiary hearing concurrently with, but separately from, the response
21 to Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for an
22 evidentiary hearing filed by Petitioner before that time may be considered premature, and may be
23 denied, without prejudice, on that basis. The motion for an evidentiary hearing must specifically
24 address why an evidentiary hearing is necessary and must meet the requirements of 28 U.S.C.
25 § 2254(e). The motion must state whether an evidentiary hearing was held in state court, and, if
26 so, state where the transcript is located in the record. If Petitioner files a motion for an
27 evidentiary hearing, Respondents shall file a response to that motion concurrently with, but
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1 separately from, their reply in support of their motion to dismiss or their response to Petitioner's
2 reply. Thereafter, Petitioner will have 20 days to file a reply in support of the motion for an
3 evidentiary hearing.

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5 DATED this 15st day of April, 2019.

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LARRY R. HICKS,
UNITED STATES DISTRICT JUDGE